

REMARKS

Applicants are in receipt of a further Office Action in the above-captioned matter. The Office Action papers were dated July 8, 2004.

Claims 23-26 and 28 were pending at the time the examiner took action on the case. At present, all of those claims are subject to rejection.

Claims 28 and 23-26 were rejected under 35 U.S.C. § 102(b). It was the examiner's position that those five claims were fully anticipated by the teachings of United States Patent No. 1,575,263 (Guglielmi).

The five claims were again rejected under § 102(b) of the Patent Act. In making that rejection, the examiner took the position that they were fully anticipated by the teachings of United States Patent No. 5,172,440 (Ming).

Finally, all five of the claims were again rejected under § 102(b) on the basis of a newly-applied reference. The examiner has now taken the position that the claims are fully anticipated by the teachings of United States Patent No. 1,819,295 (Holt). This reference was previously cited, but it had not been applied in taking action on the claims.

Applicants graciously acknowledge Examiner Tran's entertaining the interview and the courteous manner in which he conducted the interview with the undersigned, one inventor and another individual of the assignee of record. That interview was conducted on Thursday, July 22, 2004. It is believed that the amendments made to Claim 28 are in accordance with suggestions made by Examiner Tran during that interview and place Claim 28 into an allowable condition.

The only independent claim in the case is Claim 28. That claim has been amended in a substantive fashion. Claims 23-26, dependent upon Claim 28, have been amended in view of changes made in independent Claim 28.

Claim 28 defines a method for creating a character. A first step includes "providing an item which is flexible and is configurable to define a surface which is generally flat". Previously, this step referred to an item which was flexible and configurable to be planar. Examiner Tran took issue with a definition of the item as being planar. While the examiner's definition of planar might be extremely difficult for anything to ever meet (since virtually any surface, if subjected to microscopic analysis, is not truly planar), the language has been changed to define the item as being configurable to define a surface which is "generally flat". It is believed that the term "flat" better serves to define the first configuration of the item.

The method further includes a step of portraying at a location on the surface, proximate a first edge thereof, at least one character feature. With reference to the drawings of the present case, this first character feature is, by way of example, a set of eyes. It is submitted that, when, in this first configuration, the eyes are isolated from any other character feature, the eyes themselves are dissociated from one another. Applicants would argue that, in the abstract, two eyes without any other features giving meaning to the eyes render the eyes meaningless with respect to one another.

Nevertheless, what is defined by the amended claim is the dissociatedness of the eyes from another second character feature. By way of example, FIG. 9 of the drawing illustrates a fringe of the blanket which, as will be seen hereinafter in this argument, while dissociated from the eyes when the item is in its first configuration, becomes associated in the second configuration to give meaning and context to the eyes. That is, the fringe becomes perceived as hair of the character and is in a location relative to the eyes to suggest the character's head. Again, there is no significant context of a complete character when the item is in the first configuration (that is, when the blanket, illustrated in the

figures and argued here by way of example, is so that a surface thereof is generally flat).

A further step of the method of Claim 28 is manipulating the item from the first configuration to a second configuration by overlapping a portion of the item onto another portion thereof in a direction toward a first edge to which the first character feature is proximate. The manipulating step allows that the item, when in the first configuration, serves a practical function, and, when in the second configuration, gives context to a complete character by simulating the body of the character. Further, manipulation is such that the character's features become positioned appropriately relative to each other and to the body of a character which has thereby been simulated. Because of the relative orientations, the features thereby suggest the character's head.

The method of the present invention has, as a goal, the exercise of the imagination of a small child. When the item is in the second configuration, therefore, it does not portray perfectly a character having a body and a head. Rather, the character features become positioned appropriately with respect to the simulated body formed by manipulating the item to suggest a character head. By way of example shown in the drawing figures, the eyes become positioned relative to the fringe (the hair) so as to simulate a head which is appropriately positioned relative to the body formed by the manipulation.

The claim specifically defines the item, in its first configuration, as having multiple character features, but wherein those features are sufficiently dissociated from one another so that no significant context of a complete character is given to the item. This is true both with respect to the body and the head of the character which come into being after manipulation of the item into its second configuration. When the item is such that a generally flat surface is defined by it (that is, by way of

example, an open and flattened-out blanket), there is no suggestion of either a head or a body of a character. After manipulation of the item to the second configuration, however, both the head and body of a character are suggested.

None of the prior art cited by the examiner, it is submitted, either anticipates or suggests the method of Claim 28. The Guglielmi reference, while teaching an item which is manipulatable between first and second configurations, is totally without suggestion of the present invention. The item of the Guglielmi reference is what is known as a "trapanto" piece. It has a portion which, in one of the configurations can define a surface which is generally flat. However, the item of the Guglielmi reference leaves nothing to the imagination. The "character" provided by Guglielmi exists, and exists very explicitly in all configurations. A doll is created and never disappears irrespective of how manipulation is performed. There certainly is no "suggestion" of the character in either configuration.

The Ming patent teaches a quilt bag which includes a frontal section which is patterned after a toy and sewn to a cover of a quilt. The frontal section is integral with a flap or back section which is equal in size to the frontal section. There is some manipulation between multiple configurations. In so manipulating the structure of Ming, a character body takes on form. The teachings of Ming are, however, deficient in that they leave nothing to the imagination with respect to the character head. A head exists in all configurations; the head of the character never disappears no matter how much manipulation or "unmanipulation" occurs.

The newly-applied Holt reference would appear to have very limited significance as in the case of Ming. Again, there is manipulation of a handkerchief to form a body of a doll. The handkerchief is, in a first configuration, such that it can define a generally flat surface. As in the case of Ming, however, the

deficiency is in the fact that a head is always present and the body is merely formed by manipulation so as to define the overall doll. Again, there is no "suggestiveness" in the second configuration of a head. The head always exists and always has form and context.

Nor is any of the other art of record such that it either anticipates, by itself, or renders obvious, in combination with other art, such as to render Claim 28 of the present application unpatentable. Applicants would submit, therefore, that the present invention is patentable over all prior art of record. Allowance of the application and passing of the matter for issuance of allowance documents are, therefore, earnestly solicited.

Claims 23-26 are dependent, either directly or indirectly, upon independent Claim 28. As such, they incorporate therein all of the limitations of Claim 28 and are patentable on the same basis as is Claim 28.

Reconsideration is hereby requested.

Please charge any deficiencies or credit any over payment to Deposit Account 14-0620.

Respectfully submitted,

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By their attorney

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